

SECTION 13: ADMINISTRATIVE PROVISIONS

A. Variances.

1. Hardship: The Commission may grant reasonable variances from the design and improvement standards of these Regulations where it is found that strict compliance with the specific design and improvement standards of Sections 6 and 7, would result in undue hardship and such strict compliance is not essential to the public health, safety, and general welfare.
2. Procedure: The subdivider shall include with the submission of the preliminary plat a written statement describing the requested variance and the facts of hardship upon which the request is based. The Commission shall then consider each variance at the public hearing on the preliminary plat.
3. Review Criteria: In accordance with Section 76-3-506, M.C.A., a variance to these Regulations must be based on specific variance criteria, and may not have the effect of nullifying the intent and purpose of these regulations. The Commission shall not approve variances unless it makes findings based upon evidence presented in each specific case that:
 - a. The granting of the variance will not be detrimental to the public health, safety, or general welfare, or be injurious to other adjoining properties;
 - b. Due to the physical surroundings, shape, or topographical conditions of the property involved, strict compliance with the regulations will impose an undue hardship to the owner. Undue hardship does not include personal or financial hardship, or any hardship that is self-imposed;
 - c. The variance will not cause a substantial increase in public costs; and
 - d. The variance will not place the subdivision in nonconformance with any adopted zoning regulations.
4. Variances from Floodway Provisions Not Authorized. The Commission may not, by variance, permit subdivision for building purposes in areas located within the floodway of a flood of 100-year frequency as defined in Title 76, Chapter 5, M.C.A.

5. Conditions: In granting variances, the Commission may require such conditions as will, in its judgment, secure the objectives of these Regulations.
6. Statement of Facts: When any such variance is granted, the motion of approval of the proposed subdivision shall contain a statement describing the variance and the facts and conditions upon which the issuance of the variance is based.
7. Planned Unit Development: Where the standards and requirements of these Regulations may be modified by the Commission in the case of a planned unit development, no application for a variance shall be necessary. However, the procedure for a waiver shall be followed (see Subsection I).

B. Amendments to Subdivision Regulations.

1. General: For the purpose of providing for the public health, safety, and general welfare, the Commission may amend the provisions of these Regulations.
2. Hearing: Such amendments shall not become effective until after a public hearing has been held before the Commission, legal notice of which shall have been given in a newspaper of general circulation in the County not less than 15 days nor more than 30 days prior to the date of hearing.
3. Amendments to these Regulations may occur due to amendments to the Act and the Administrative Rules of Montana.

C. Administration.

1. Violation: Any person, firm, corporation or other entity who shall violate the provisions of these Regulations shall be guilty of a misdemeanor.
2. Penalties: Any violation of the provisions of this Regulation is an offense punishable by a fine of not less than \$100.00 nor more than \$500.00 or imprisonment in a county jail for not more than three months or by both fine and imprisonment. Each sale or transfer, or offer of sale or transfer, of each separate parcel of land in violation of any provision of these regulations shall be deemed a separate and distinct offense.
3. Enforcement: Except as provided in 76-3-303, MCA, every final subdivision plat must be filed for record with the County Clerk and Recorder before title to the subdivided land can be sold or transferred in any manner.

If illegal transfers or offers of any manner are made, the County Attorney shall commence action to enjoin further sales or transfers or offers of sale or transfer and to compel compliance with all provisions of the Montana Subdivision and Platting Act and these Regulations, the cost of such action being imposed against the person or entity committing the illegal act.

- D. Fee.** Review fees shall be paid to the planning department for each subdivision plat reviewed according to the fee schedule approved by the Commission under a separate document.

E. Corrections, Amendments or Vacation of Recorded Final Plats.

1. Correction of Errors: Corrections of errors that in the Commission's opinion will not materially alter the plat may be made by the submission of a corrected final plat for the Commission's approval. The plat may be filed under the procedures for first minor subdivision plats.

The plat shall be entitled "Amended Plat of the (name of subdivision) Subdivision" and the reason for the correction shall be stated on the face of the plat.

2. Material Alterations: Amendments that materially alter any portion of a filed subdivision plat, its land divisions or improvements, can only be made by the filing of an amended plat showing all alterations. Any alteration which increases the number of lots, modifies six or more lots, or abandons a public dedicated right-of-way must be approved by the Commission under the major or minor subdivision procedure as is appropriate. Prior to such approval, the amended plat shall be reviewed by the planning department. The Commission may not approve an amendment which will place the plat in non-conformance with the standards contained herein unless a public hearing is held on the plat and a written variance from the standards issued pursuant to procedures contained herein for such variances. The Commission may not approve an amended final plat without the written consent of the owners or lenders of all lots which will be modified by the proposed amendment.

The plat shall be entitled "Amended Plat of (the name) Subdivision," and the reason for the amendment shall be stated on the face of the plat.

3. Vacating Recorded Plats: Any plat prepared and recorded as provided herein required may be vacated, either in whole or in part, as provided by 7-5-2501, 7-5-2502, 7-14-2616(1) and (2), 7-14-2617, 7-14-4114(1) and (2), and 7-14-4115, MCA. Upon vacation, the Commission or the district court, as provided in 7-5-2502, shall determine to which properties the title to the streets and alley of the vacated portions shall revert. The

Commission or the district court, as provided in 7-5-2502, shall take into consideration the previous platting; the manner in which the right-of-way was originally dedicated, granted, or conveyed; the reasons stated in the petition requesting the vacation; the parties requesting the vacation; and any agreements between the adjacent property owners regarding the use of the vacated area. The title to the streets and alleys of the vacated portions may revert to one or more of the owners of the properties within the platted area adjacent to the vacated portions.

When any poleline, pipeline, or any other public or private facility is located in a vacated street or alley at the time of the reversion of the title to the vacated street or alley, the owner of the public or private utility facility has an easement over the vacated land to continue the operation and maintenance of the public utility facility.

F. Inaccurate or Incomplete Information. The Commissioners may withdraw approval of a preliminary plat if they determine that information provided by the subdivider, and upon which approval of the preliminary plat was based, is inaccurate or incomplete.

1. Within 30 days following approval or conditional approval of a preliminary plat any person or agency which claims that information which was provided by the subdivider is inaccurate or incomplete may submit the information and proof to the planning department.
2. The planning department shall investigate the claim, the accompanying information and proof, and make a report to the Commissioners.
3. Within 15 days after receipt of the information, the planning department shall present the report to the Commissioners at a regular meeting of the Commission. Notice of the meeting shall be given to the claimant and the subdivider. At the meeting the Commissioners shall consider the information and proof.

G. Waivers. In Planned Unit Developments, the Commission may grant reasonable waivers from these Regulations where it is found that these Regulations allow a waiver to be requested and granted.

1. Procedure: The subdivider shall include with the submission of the preliminary plat a written statement describing the requested waiver and the reasons upon which the request is based. The Commission shall then consider each waiver on the preliminary plat.

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